

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. CR-18-227-SLP
	)	
JOSEPH MALDONADO-PASSAGE,	)	
	)	
Defendant.	)	

**DEFENDANT’S DESIGNATION OF DEPOSITION TESTIMONY  
OF ASHLEY WEBSTER**

Counsel for Joseph Maldonado-Passage, submits the following designation of testimony of Ashley Webster.

Preliminarily, Mr. Passage objects to the use of the Rule 15 deposition to present Ms. Webster’s testimony. This objection has been formalized in his response to the Government’s Motion to Take Rule 15 Deposition (Docs. 90, 91). Moreover, additional information concerning Ms. Webster’s alleged inability to travel came to light and is discussed in the deposition transcript at Page 5, line 2 through Page 9, line 5. In light of that additional information, Mr. Passage objects to the entirety of the deposition transcript being entered as testimony.

Should the Court permit Ms. Webster’s testimony over his objection, Mr. Passage hereby designates the following portions of Ms. Webster’s testimony:

- Page 10, line 20 through page 15, line 4;
- Page 18, line 21 through page 20, line 2;
- Page 28, line 4 through page 34, line 15;

- Page 40, line 17 through page 41, line 3;
- Page 42, line 3 through page 42, line 20;
- Page 44, line 13 through page 45, line 6.

Mr. Passage maintains his objection to the admissibility of the 404(b) evidence. Mr. Passage reurges his objection to Ms. Webster's testimony on the basis that it is propensity evidence offered solely to show Mr. Passage acted in conformity with prior conduct. Any probative value of the evidence is substantially outweighed by the danger of unfair prejudice. Fed.R.Evid. 403. It is impermissible propensity evidence outside the scope of Rule 404(b)(2).

However, should the court overrule this objection, Mr. Passage designates the following additional portions of the transcript. By designating these portions, Mr. Passage expressly notes he is not waiving his objection to the admissibility of this line of testimony, and requests a continuing objection:

- Page 15, line 5 through page 18, line 20;
- Page 20, line 23 through page 22, line 16;
- Page 24, line 1 through page 24, line 24;
- Page 27, line 12 through page 27, line 15;
- Page 34, line 16 through page 38, line 4;
- Page 41, line 4 through page 42, line 2.

Respectfully submitted,

s/ Kyle E. Wackenheim

WILLIAM P. EARLEY

Bar Number 11293

KYLE E. WACKENHEIM

Bar Number 30760

ASSISTANT FEDERAL PUBLIC DEFENDERS

SUITE 109, 215 DEAN A. McGEE AVENUE

OKLAHOMA CITY, OKLAHOMA 73102

(405)609-5930 FAX (405) 609-5932

E-mail kyle\_wackenheim@fd.org

### **CERTIFICATE OF SERVICE**

I hereby certify that on March 20, 2019, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic filing to the following ECF registrants: Amanda Green and Charles Brown, Assistant United States Attorneys.

s/ Kyle E. Wackenheim

KYLE E. WACKENHEIM